

**WESTERN DISTRICT OF LOUISIANA
DIVISIONAL OFFICES**

LISTING OF PARISHES WITHIN THE BOUNDARIES OF EACH DIVISIONAL OFFICE
FOR THE PURPOSE OF FILING PETITIONS AND PLEADINGS IN THE UNITED STATES
BANKRUPTCY COURT, WESTERN DISTRICT OF LOUISIANA

SHREVEPORT DIVISION

Caddo, Bossier, Webster, Claiborne, DeSoto, Red River, Bienville
and Sabine

ALEXANDRIA DIVISION

Natchitoches, Winn, Grant, LaSalle, Catahoula, Concordia, Vernon,
Rapides and Avoyelles

OPELOUSAS DIVISION

Beauregard, Allen, Evangeline, St. Landry, Calcasieu, Jefferson
Davis, Acadia, Lafayette, St. Martin, Cameron, Vermillion, Iberia
and St. Mary

MONROE DIVISION - Chapter 7 and Chapter 11 shall be filed in the
Alexandria Division

Chapter 12 and Chapter 13 shall be filed in the
Shreveport Division

Union, Morehouse, West Carroll, East Carroll, Lincoln, Ouachita,
Richland, Madison, Jackson, Caldwell, Franklin and Tensas

FILING A VOLUNTARY BANKRUPTCY PETITION

1. PETITION
2. MAILING MATRIX
3. FEES

1. Petition

A. Form and copies:

- (1) The petition must conform substantially to Official Bankruptcy Forms, Rules 1002 and 9009, Federal Rules of Bankruptcy Procedure.
- (2) Caption Rule 1005, Federal Rules of Bankruptcy Procedure:
 - a. Name of court, e.g.,
"UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION"
 - b. Title of the case:

"Name of debtor, social security number,
employer's tax identification number of
debtor, all other names used by debtor"
 - c. Docket number.
- (3) Number of copies to be filed with original

petition Uniform Local Bankruptcy Rule 1002-1:

- a. Chapter 7 - three (3)
- b. Chapter 9 - six (6)
- c. Chapter 11 -six (6)
- d. Chapter 12 -three (3)
- e. Chapter 13 -three (3)

B. Check list and assemblage for Chapter 7 petitions:

ITEM	TIME DUE	REMARKS
Petition	Immediately	<u>Rule 1002(a), Federal Rules of Bankruptcy Procedure</u> <u>Official Bankruptcy Forms</u>
Exhibit B or Notice to Consumer Debtors	Immediately	<u>11 U.S.C. 342(b)</u> <u>Official Bankruptcy Forms</u> Required when debts are primarily consumer debts <u>11 U.S.C. 101(8)</u> . Exhibit B is a certificate by the attorney that debtor was in- formed of all options under the <u>Code</u> . Notice to Consumer Debtors is required only if Exhibit B is not filed and must be mailed by the clerk.
Verification (Unsworn Declaration)	Immediately	<u>28 U.S.C. 1746</u> <u>Rule 1008, Federal Rules of Bankruptcy Procedure</u> Required when any petition, list, schedule, statement or amendment thereto, is filed.
Summary of Schedules with the Schedules Statements	15 days	<u>11 U.S.C. 521(1)</u> <u>Rule 1007(a)(1) & (b)(1) & (c),</u> <u>Federal Rules of Bankruptcy</u> <u>Procedure</u> <u>Official Bankruptcy Forms</u> If no list of creditors with addresses (mailing matrix) is

filed, schedules are due immediately.

Debtor's Statement of Intention 30 days

11 U.S.C. 521(2)(A)
Rule 1007(b)(2), Federal Rules of Bankruptcy Procedure
Official Bankruptcy Forms
Required if assets and liabilities include consumer debts secured by property of the estate.

Disclosure of Compensation Paid Attorney 15 days

11 U.S.C. 329(a)
Rule 2016(b), Federal Rules of Bankruptcy Procedure
Required whether or not attorney applies for compensation.

C. Check list and assemblage for Chapter 9 petitions:

ITEM	TIME DUE	REMARKS
Petition	Immediately	<u>11 U.S.C. 109(c)</u> <u>Rule 1002(a), Federal Rules of Bankruptcy Procedure</u> <u>Official Bankruptcy Forms</u>
List of 20 Largest Unsecured Creditors	Immediately	<u>Rule 1007(d), Federal Rules of Bankruptcy Procedure</u> <u>Official Bankruptcy Forms</u>
Application & Order for Appointment of Attorney	Immediately	<u>Rule 2014(a), Federal Rules of Bankruptcy Procedure</u> <u>Uniform Local Bankruptcy Rule 2014-1</u>
Verification (Unsworn Declaration)	Immediately	<u>28 U.S.C. 1746</u> <u>Rule 1008, Federal Rules of Bankruptcy Procedure</u> Required when any petition, list, schedule, statement or amendment thereto, is filed.
Summary of Schedules with the Schedules Statements	Fixed by court	<u>11 U.S.C. 521(1)</u> <u>Rule 1007(e), Federal Rules of Bankruptcy Procedure</u> <u>Official Bankruptcy Forms</u>

If no list of creditors with addresses (mailing matrix) is filed, schedules are due immediately.

Disclosure of Compensation Paid Attorney	15 days	<u>11 U.S.C. 329(a)</u> <u>Rule 2016(b), Federal Rules of Bankruptcy Procedure</u>
Chapter 9 Plan	With the petition or thereafter, but within a time fixed by the court	<u>11 U.S.C. 941</u> <u>Rule 3016, Federal Rules of Bankruptcy Procedure</u>

D. Check list and assemblage for Chapter 11 petitions:

ITEM	TIME DUE	REMARKS
Petition	Immediately	<u>Rule 1002(a), Federal Rules of Bankruptcy Procedure</u> <u>Official Bankruptcy Forms</u>
Exhibit A	Immediately	<u>Official Bankruptcy Forms</u> Only needed for corporations.
List of 20 Largest Unsecured Creditors	Immediately	<u>Rule 1007(d), Federal Rules of Bankruptcy Procedure</u> <u>Official Bankruptcy Forms</u> List should include name, address, telephone, nature and amount of claim. Insiders are not to be included.
Application & Order for Appointment of Attorney	Immediately	<u>11 U.S.C. 1103(a)</u> <u>Rule 2014(a), Federal Rules of Bankruptcy Procedure</u> <u>Uniform Local Bankruptcy Rule 2014-1</u>

Verification (Unsworn Declaration)	Immediately	<u>28 U.S.C. 1746</u> <u>Rule 1008, Federal Rules of Bankruptcy Procedure</u> Required when any petition, list, schedule, statement or amendment thereto, is filed.
Summary of Schedules with the Schedules Statements	15 days	<u>11 U.S.C. 521(1), Rule 1007</u> <u>(a)(1) & (b)(1) & (c), Federal</u> <u>Rules of Bankruptcy Procedure</u> <u>Official Bankruptcy Forms</u> If no list of creditors with addresses (mailing matrix) is filed, schedules are due immediately.
Disclosure of Compensation Paid Attorney	15 days	<u>11 U.S.C. 329(a)</u> <u>Rule 2016(b), Federal Rules</u> <u>of Bankruptcy Procedure</u> Required whether or not attorney applies for compensation.
Order to Debtor in Possession		<u>Uniform Local Bankruptcy Rule</u> <u>2015-2</u> Required, but no deadline for filing is specified.

ITEM	TIME DUE	REMARKS
Chapter 11 Plan	120 days	<u>11 U.S.C. 1121(a), (b), (c),</u> <u>(d) and (e), Rule 3016, Federal</u> <u>Rules of Bankruptcy Procedure</u> Only a debtor may file a Chapter 11 Plan for the first 120 days after the Order for Relief. Any party in interest may file a Chapter 11 Plan after 120 days if: (1) a trustee has been appointed; (2) debtor has not filed a Plan, or; (3) debtor has not filed a Plan which has been approved by each class of impaired claims by 180 days from the Order for Relief. In a chapter 11 case in which the debtor is a small business and
Chapter 11 Small Business Plan	100 days	

elects to be considered a small business, only the debtor may file a plan until after 100 days after the Order for Relief. All plans shall be filed within 160 days after the Order for Relief.

E. Check list and assemblage for Chapter 12 petitions:

ITEM	TIME DUE	REMARKS
Petition	Immediately	<u>Rule 1002(a), Federal Rules of Bankruptcy Procedure</u> <u>Official Bankruptcy Forms</u>
Verification (Unsworn Declaration)	Immediately	<u>28 U.S.C. 1746</u> <u>Rule 1008, Federal Rules of Bankruptcy Procedure</u> Required when any petition, list, schedule, statement or amendment thereto, is filed.
Summary of Schedules with the Schedules Statements	15 days	<u>11 U.S.C. 521(1), Rule 1007</u> <u>(a)(1) & (b)(1) & (c), Federal Rules of Bankruptcy Procedure</u> <u>Official Bankruptcy Forms</u> If no list of creditors with addresses (mailing matrix) is filed, schedules are due immediately.
ITEM	TIME DUE	REMARKS
Disclosure of Compensation Paid Attorney	15 days	<u>11 U.S.C. 329(a)</u> <u>Rule 2016(b), Federal Rules of Bankruptcy Procedure</u> Required whether or not attorney applies for compensation.
Chapter 12 Plan	90 days	<u>11 U.S.C. 1221 & 1224 and</u> <u>Rule 3015(a), Federal Rules of Bankruptcy Procedure</u> Required within 90 days after the Order for Relief unless extended by the court. The confirmation hearing must be concluded within 45 days after

filing the Plan.

F. Check list and assemblage for Chapter 13 petitions:

ITEM	TIME DUE	REMARKS
Petition	Immediately	<u>Rule 1002(a), Federal Rules of Bankruptcy Procedure</u> <u>Official Bankruptcy Forms</u>
Verification (Unsworn Declaration)	Immediately	<u>28 U.S.C. 1746</u> <u>Rule 1008, Federal Rules of Bankruptcy Procedure</u> Required when any petition, list, schedule, statement or amendment thereto, is filed.
Summary of Schedules with the Schedules Statements	15 days	<u>11 U.S.C. 521(1), Rule 1007 (a)(1) & (b)(1) & (c), Federal Rules of Bankruptcy Procedure</u> <u>Official Bankruptcy Forms</u> If no list of creditors with addresses (mailing matrix) is filed, schedules are due immediately.
Disclosure of Compensation Paid Attorney	15 days	<u>11 U.S.C. 329(a)</u> <u>Rule 2016(b), Federal Rules of Bankruptcy Procedure</u> Required whether or not attorney applies for compensation.
Chapter 13 Plan	15 days	<u>11 U.S.C. 1321</u> <u>Rule 3015(b), Federal Rules of Bankruptcy Procedure</u>

NOTE: Attached to this Guide is a sample ADDENDUM TO CHAPTER 13 PLAN APPLICATION AND NOTICE FOR ATTORNEY'S FEES

G. Check list - signatures, pro se party and party represented by attorney:

Party not represented by an attorney	Party shall sign all papers, stat- ing address and telephone number.	<u>Rule 9011, Federal Rules of Bankruptcy Procedure</u>
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Party represented by an attorney	Attorney's signature. Attorney's name, office address and office telephone number.	<u>Rule 9011, Federal Rules of Bankruptcy Procedure</u> <u>Uniform Local Bankruptcy Rule</u> <u>2090-1</u> <u>Local Civil Rule 83.2.1E&W,</u> <u>(Former ULLR 20.01E&W)</u> Attorney's must be admitted to practice before the United States District Court for the Western District of Louisiana.
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H. Non-attorney bankruptcy petition preparer, 11 U.S.C.110,
Official Bankruptcy Forms:

A bankruptcy petition preparer shall sign any document for filing that the bankruptcy petition preparer prepares for compensation on behalf of a debtor, and also provide preparer's name, address and identifying number. Within 10 days after the date of the filing of a petition, preparer shall file a declaration under penalty of perjury disclosing any fee received from, or on behalf of, debtor within 12 months immediately prior to the filing of the case, and any unpaid fee charged to the debtor.

2. Mailing matrix Uniform Local Bankruptcy Rule 1007-2 and U.S. Bankruptcy Court Automation Project (BANCAP) letter dated June 9, 1994. The aforementioned letter is attached to this Guide.

A. Must be filed with petition. Uniform Local Bankruptcy Rule 1007-2.

B. 8 1/2" x 11" paper, typed in one of the following standard typefaces or print styles: Courier 10 pitch, Prestige Elite or Letter Gothic. The list must be typed on single pages in single columns, with no letters closer than 2" from any edge of paper.

C. Each name/address must contain no more than five (5) total lines with at least three (3) blank lines between each name/address block. Each line must be 32 characters or less in length.

3. Fees 28 U.S.C. 1930 and Rule 1006(a), Federal Rules of Bankruptcy Procedure

A. Filing fees:

(1) Chapter 7 - \$130.00

- (2) Chapter 9 - \$300.00
- (3) Chapter 11 - \$800.00
- (4) Chapter 11 Railroad - \$1,000.00
- (5) Chapter 12 - \$200.00
- (6) Chapter 13 - \$130.00

B. Miscellaneous administrative fees:

In all cases filed under chapter 7 or chapter 13 of Title 11 of the United States Code, the debtor shall pay a bankruptcy miscellaneous administrative fee. 28 U.S.C. 1930(b) and Appendix, Rule 1006, Federal Rules of Bankruptcy Procedure

- a. The bankruptcy miscellaneous administrative fee is \$30.00 for each chapter 7 and chapter 13 case filed.
- b. The bankruptcy miscellaneous administrative fee may be paid in installments in the same manner that the filing fee may be paid in installments, consistent with the procedure set forth in Rule 1006, Federal Rules of Bankruptcy Procedure.

C. Trustee fee surcharge:

In all cases filed under chapter 7 of Title 11 of the United States Code, the petitioner shall pay a trustee fee surcharge. 28 U.S.C. 1930(b) and Appendix, Rule 1006, Federal Rules of Bankruptcy Procedure.

- a. A \$15.00 trustee fee surcharge will be paid by petitioner upon the filing of a petition under Chapter 7, by the debtor upon filing a notice of conversion of a chapter 12 case or chapter 13 case to a chapter 7 case, or by the movant upon any motion for conversion of a case to chapter 7.
- b. The trustee fee surcharge may be paid in installments in the same manner that the filing fee may be paid in installments, consistent with the procedure set forth in Rule 1006, Federal Rules of Bankruptcy Procedure.

D. The miscellaneous administrative fee and the trustee fee surcharge shall be paid in addition to the filing fees prescribed under 28 U.S.C. 1930.

E. Installment fees Rule 1006(b)(1), (2) & (3), Federal Rules of Bankruptcy Procedure and Uniform Local Bankruptcy Rule 1006-1:

- (1) Signed application in accordance with Rule 9011, Federal Rules of Bankruptcy Procedure, for payment of filing fees in installments by an individual debtor shall include statements that debtor is unable to pay the filing fees except in installments and that neither any money has been paid nor property transferred to an attorney for services in connection with the case.
- (2) The filing fee must be paid in full before the debtor or Chapter 13 trustee may pay an attorney or any other person for services in connection with the case.
- (3) Prior to the first meeting of creditors, the court will act on the application.
- (4) The number of installments shall not exceed three (3) and shall be paid as follows in Chapter 7 individual cases:
 - a. \$65.00 with petition.
 - b. \$55.00 no later than 30 days after filing of petition.
 - c. \$55.00 no later than 60 days after filing of petition.
- (5) The number of installments shall not exceed four (4) and shall be paid as follows in Chapter 11 individual cases:
 - a. \$200.00 with petition.
 - b. \$200.00 no later than 30 days after filing of petition.
 - c. \$200.00 no later than 60 days after filing of petition.
 - d. \$200.00 no later than 90 days after filing of petition.
- (6) The number of installments shall not exceed four (4) and shall be paid as follows in Chapter 12 individual cases:
 - a. \$50.00 with petition.
 - b. \$50.00 no later than 30 days after filing of

- petition.
 - c. \$50.00 no later than 60 days after filing of petition.
 - d. \$50.00 no later than 90 days after filing of petition.
- (7) The number of installments shall not exceed three (3) and shall be paid as follows in Chapter 13 individual cases:
- a. \$60.00 with petition.
 - b. \$50.00 no later than 30 days after filing of petition.
 - c. \$50.00 no later than 60 days after filing of petition.

FILING AN INVOLUNTARY BANKRUPTCY PETITION

1. GENERAL
2. PETITION
3. FEES
4. SUMMONS
5. JOINDER OF PETITIONERS
6. RESPONSIVE PLEADINGS
7. ORDER FOR RELIEF
8. PROCEDURE AFTER ORDER FOR RELIEF

1. General 11 U.S.C. 303

- A. Involuntary cases can be commenced under Chapter 7 and Chapter 11.
- B. Involuntary cases can be commenced against the following, who may be debtors under the chapter which the case is brought:
 - (1) A person.
 - (2) A business.
 - (3) A commercial corporation.
- C. Involuntary cases cannot be commenced against:
 - (1) A farmer.
 - (2) A family farmer.
 - (3) A non-money corporation (e.g., a charitable

corporation).

D. Creditors that may commence an involuntary case:

- (1) Three (3) or more creditors holding a claim which is not contingent as to liability and is not the subject of a bona fide dispute or whose claims aggregate at least \$10,000.00. (NOTE: Exclude from this amount the value of secured property of the creditor.)
- (2) If there are less than twelve (12) creditors, one or more creditors:
 - a. Excluding any creditor who is an employee of the debtor, is an insider of the debtor, or is a transferee with a voidable transfer.
 - b. Whose claims aggregate at least \$10,000.00.
- (3) If a debtor is a partnership:
 - a. By fewer than all of the general partners.
 - b. If relief has been ordered as to all general partners by a general partner, by the trustee of a general partner, or by a creditor of the partnership.
- (4) By a foreign representative of the estate in a foreign proceeding concerning debtor.

2. Petition 11 U.S.C. 303, Rule 1003, Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms

A. Number of copies to be filed with original petition Uniform Local Bankruptcy Rule 1002-1:

- (1) Chapter 7 - three (3)
- (2) Chapter 11 - six (6)

B. Transferor or Transferee of Claim:

- (1) Attach all documents evidencing the transfer.
- (2) Signed statement that the transfer was not for the purpose of commencing the case, and set forth the consideration for and terms of the

transfer.

3. Filing fee 28 U.S.C. 1930, Rule 1006, Federal Rules of Bankruptcy Procedure
 - A. Chapter 7 - \$130.00.
 - B. Chapter 11 - \$800.00.
4. Trustee fee surcharge:
 - A. In all cases filed under chapter 7 of Title 11 of the United States Code, the petitioner shall pay a trustee fee surcharge. 28 U.S.C. 1930(b) and Appendix, Rule 1006, Federal Rules of Bankruptcy Procedure.
 - (1) A \$15.00 trustee fee surcharge will be paid by the petitioner upon the filing of a petition under Chapter 7, by the debtor upon filing a notice of conversion of a chapter 12 case or chapter 13 case to a chapter 7 case, or by the movant upon any motion for conversion of a case to chapter 7.
 - (2) The trustee fee surcharge will be paid in addition to the filing fee prescribed under 28 U.S.C. 1930.
5. There is no provision for filing an involuntary petition with payment of fees by installment.
6. Summons Rule 1010, Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms
 - A. Shall be signed by the clerk and bear the seal of the court.
 - B. Service Rule 4(a)-(j), Federal Rules of Civil Procedure and Rules 1010 and 7004(a)-(h), Federal Rules of Bankruptcy Procedure:
 - (1) Petitioner or petitioner's attorney shall be responsible for prompt service of the summons and a copy of the petition with any attachments.
 - (2) Service may be made by any person who is not a party and who is at least eighteen (18) years of age.
 - (3) Methods of service:

- a. Personal or domiciliary.
 - b. First class mail within the United States.
 - c. If service cannot be made otherwise, under Rule 1010, Federal Rules of Bankruptcy Procedure, the court may order mailing to the last known address, and publication.
 - d. Service may be made on debtor anywhere in the United States.
 - e. Time limit for service is ten (10) days from issuance.
 - f. Return of service, i.e., proof, must be filed promptly (before delays to respond have expired), and must be by affidavit or unsworn declaration under penalty of perjury 28 U.S.C. 1746.
7. Joinder of petitioners after filing 11 U.S.C. 303(c) and Rule 1003(b), Federal Rules of Bankruptcy Procedure
- A. Right to join must be prior to relief being ordered and claim must be unsecured and not contingent.
 - B. Effect of joinder - the same effect as if joining creditor were a petitioning creditor.
 - C. If the answer alleges existence of more than twelve (12) creditors, but there were less than three (3) petitioners, the court shall allow a reasonable opportunity for other creditors to join before the hearing is held.
8. Responsive pleadings Rule 1011(a) & (b), Federal Rules of Bankruptcy Procedure
- A. Who may respond:
 - (1) The debtor.
 - (2) In the case of a partnership, a non-petitioning partner.
 - B. Time:
 - (1) Within twenty (20) days after service.

- (2) If service is made out of state, the court shall prescribe the time.
 - (3) If a motion is filed, time for response is extended until ten (10) days after disposition of the motion Rule 12(a), Federal Rules of Civil Procedure.
- 9. Order for Relief 11 U.S.C. 303(h) and Rule 1013, Federal Rules of Bankruptcy Procedure
 - A. When responsive pleadings are filed:
 - (1) A trial is required.
 - (2) Grounds:
 - a. Debtor is not paying debts as they become due (excluding debts subject to bona fide dispute).
 - b. Appointment of a custodian within 120 days (other than one appointed to enforce a lien of less than substantially all debtor's property).
 - B. By default 11 U.S.C. 303(h) and Rule 1013(b), Federal Rules of Bankruptcy Procedure
 - (1) Order for Relief shall be entered by default if no response is filed timely.
 - (2) The Order for Relief should be submitted to the judge by the clerk, on the next day, or as soon as is practicable after delays have run.
- 10. Procedure after Order for Relief
 - A. Filing of schedules and statements:
 - (1) Unless schedules have been filed, a list containing the name and address of each creditor shall be filed within fifteen (15) days after entry of the Order for Relief Rule 1007(a)(2), Federal Rules of Bankruptcy Procedure.
 - (2) Summary of schedules with the schedules and statements shall be filed within fifteen (15) days after entry of the Order for Relief Rule 1007(c),

Federal Rules of Bankruptcy Procedure.

- B. In an involuntary chapter 11 reorganization case, the list of 20 Largest Creditors shall be filed by the debtor within two(2) days after entry of the Order for Relief. Rule 1007(d), Federal Rules of Bankruptcy Procedure.
- C. After entry of the Order for Relief, an involuntary case follows the same procedures as a voluntary case.

NOTE: Form B13, Summons to Debtor in Involuntary Case is attached to this Guide.

FILING ADVERSARY PROCEEDINGS

- 1. COMPLAINT**
- 2. BANKRUPTCY ADVERSARY PROCEEDING COVER SHEET (FORM B104)**
- 3. FEES**
- 4. PROCESS FOR EACH DEFENDANT TO BE SERVED**
 - 1. Complaint
 - A. Form of pleadings Rule 7010, Federal Rules of Bankruptcy Procedure, Official Bankruptcy Forms.
 - B. All parties MUST be listed in the caption of the original complaint. Rule 10(a), Federal Rules of Civil Procedure, and Rule 7010, Federal Rules of Bankruptcy Procedure
 - C. Type of actions Rule 7001, Federal Rules of Bankruptcy Procedure:
 - (1) To recover money or property, except a proceeding under 11 U.S.C. 554(b), 11 U.S.C. 725, Rule 2017, Federal Rules of Bankruptcy Procedure, or Rule 6002, Federal Rules of Bankruptcy Procedure.

- (2) To determine the validity, priority, or extent of a lien or other interest in property, other than a proceeding under Rule 4003(d), Federal Rules of Bankruptcy Procedure.
 - (3) To obtain approval pursuant to 11 U.S.C. 363(h) for the sale of both the interest of the estate and of a co-owner in property.
 - (4) To object to or revoke a discharge.
 - (5) To revoke an order of confirmation of a Chapter 11, Chapter 12, or Chapter 13 Plan.
 - (6) To determine the dischargeability of a debt.
 - (7) To obtain an injunction or other equitable relief.
 - (8) To subordinate any allowed claim or interest, except when subordination is provided in a Chapter 9, 11, 12, or 13 Plan.
 - (9) To obtain a declaratory judgment relating to any of the foregoing, or
 - (10) To determine a claim or cause of action removed to a bankruptcy court.
2. Bankruptcy Adversary Proceeding Cover Sheet (Form B104) Rule 9009, Federal Rules of Bankruptcy Procedure
3. Filing fee 28 U.S.C. 1930, Judicial Conference Schedule of Fees
- A. \$150.00.
 - B. No fee for United States or a debtor, except a debtor in possession.
4. Process for summons and complaint; service; proof of service for each defendant to be served, Rule 4(a)-(j), Federal Rules of Civil Procedure and Rule 7004(a)-(h), Federal Rules of Bankruptcy Procedure.
- A. Summons with one copy of complaint for each defendant to be served, shall be signed by the clerk and bear the seal of the court.
 - B. Issuance - the plaintiff may present the summons to the

clerk for signature and seal. If summons is in proper form, the clerk shall sign, seal and issue to the plaintiff for service on the defendant.

- (1) "The defendant shall serve an answer within thirty (30) days after the issuance of the summons, except when a different time is prescribed by the court," Rule 7012, Federal Rules of Bankruptcy Procedure.
 - (2) "The United States or an officer or agency thereof shall serve an answer to a complaint within thirty-five (35) days after issuance of the summons," Rule 7012, Federal Rules of Bankruptcy Procedure.
- C. Obligation to serve - "plaintiff's attorney...shall be responsible for prompt service," Rule 4(a), Federal Rules of Civil Procedure.
- D. Who can serve summons and complaint - "any person at least eighteen (18) years of age who is not a party," Rule 7004(a), Federal Rules of Bankruptcy Procedure.
- E. How a summons and complaint is served, Rule 4(a)-(j), Federal Rules of Civil Procedure, and Rule 7004(a)-(h), Federal Rules of Bankruptcy Procedure:
- (1) On an individual:
 - a. Personal delivery.
 - b. Delivery to an authorized agent.
 - c. Delivery to a person of suitable age and discretion residing at the person's dwelling.
 - d. First class mail, postage prepaid, to person's dwelling or usual place of abode or to the place where person regularly conducts business or profession.
 - (2) On a debtor:

After a petition has been filed by or served upon the debtor and until the case is dismissed or closed, by mailing a copy of the summons and complaint to the debtor at the address shown in the petition or statement of affairs or to such

other address as the debtor may designate in a filed writing and, if the debtor is represented by an attorney, to the attorney at the attorney's post-office address.

- (3) On a corporation, partnership, or unincorporated association:

By mailing a copy of the summons and complaint to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law.

- (4) On the United States:

By mailing a copy of the summons and complaint addressed to the civil process clerk at the office of the United States attorney for the district in which the action is brought and by mailing a copy of the summons and complaint to the Attorney General of the United States, and in any action attacking the validity of an order of an officer or agency of the United States not made a party, by also mailing a copy of the summons and complaint to that officer or agency.

- (5) On an officer or agency of the United States:
By mailing a copy of the summons and complaint to the United States as prescribed in (4) above and also to the officer or agency.

- (6) On the United States trustee, when the United States trustee is the trustee in the case and service is made upon the United States trustee solely as trustee:

By mailing a copy of the summons and complaint to an office of the United States trustee or another place designated by the United States trustee in the district where the case under the Code is pending.

F. Nationwide service, Rule 7004(d), Federal Rules of Bankruptcy Procedure:

The summons and complaint and all other process except a subpoena may be served anywhere in the United States.

G. Service by publication, Rules 7004(c), Federal Rules

of Bankruptcy Procedure:

The court may order the summons and complaint to be served by mailing copies thereof by first class mail to the party's last known address and by at least one publication in such manner and form as the court may direct.

H. Summons - time limit for service, Rule 7004(e), Federal Rules of Bankruptcy Procedure:

Delivery or mailing of the summons and complaint must be within ten (10) days following issuance.

I. Proof of service (return), Rule 4(g), Federal Rules of Civil Procedure:

An affidavit (or unsworn declaration under penalty of perjury under 28 U.S.C. 1746) showing the method of service.

APPEALS AND WITHDRAWAL OF REFERENCE

1. GENERAL
2. FILING AN APPEAL AS OF RIGHT
3. APPEAL BY LEAVE OF COURT
4. CROSS APPEAL
5. MISCELLANEOUS
6. LOCAL CIVIL RULE 83.4 - BANKRUPTCY

1. General

A. Bankruptcy matters may be heard in the district court in two instances:

(1) Upon appeal under 28 U.S.C. 158.

(2) Upon withdrawal of reference under 28 U.S.C. 157(d).

B. Any filing which initiates a request for relief in a bankruptcy matter from the district court should be filed in the office of the clerk of the bankruptcy court. When the record is complete for purposes of appeal, the clerk shall transmit a copy thereof to the district court for consideration. Generally, subsequent filings should be made in the district court.

C. Fees, 28 U.S.C. 1930 and Appendix:

(1) Appeal, \$105.00 (\$5.00 filing + \$100.00 docketing).

(2) Cross Appeal, \$100.00.

(3) Withdrawal of Reference, \$60.00.

2. Filing an Appeal as of Right

A. The notice of appeal from a final judgment, order or decree of a bankruptcy judge shall conform substantially to Official Bankruptcy Forms and shall be filed with the clerk within the time allowed by Rule 8002, Federal Rules of Bankruptcy Procedure.

B. Copies to be filed with the original, Rules 8001 and 8004, Federal Rules of Bankruptcy Procedure:

Appellant shall file a sufficient number of copies of the notice of appeal to enable the clerk to comply promptly with Rule 8004, Federal Rules of Bankruptcy Procedure.

C. Service, Rule 8004, Federal Rules of Bankruptcy Procedure:

The clerk shall serve notice of the filing of the notice of appeal on each party other than the appellant. The clerk shall transmit a copy of the notice of appeal to the United States trustee.

D. Fee, 28 U.S.C. 1930 and Appendix:

A fee of \$105.00 (\$5.00 filing + \$100.00 docketing) shall accompany the filing of a notice of appeal.

E. Record and Issues on Appeal, Rule 8006, Federal Rules of Bankruptcy Procedure:

Within ten (10) days after filing the notice of appeal, as provided by Rule 8001(a), entry of an order granting leave to appeal, or entry of an order disposing of the last timely motion outstanding of a type specified in Rule 8002(b), whichever is later, the appellant shall file with the clerk and serve on the appellee a designation of the items to be included in the record on appeal and a statement of the issues to be presented. Copies of the designated items to be included in the record on appeal shall be provided to the clerk by the designating party; if the party fails to provide copies, the clerk shall prepare copies at the party's expense.

F. Request for transcript, Rule 8006, Federal Rules of Bankruptcy Procedure:

- (1) If the record designated by any party includes a transcript, the party shall deliver to the electronic court recorder operator (ECRO) a completed Form AO 435, Transcript Order. Form AO 435 may be obtained for the clerk's office.
- (2) Upon receipt of the AO Form 435, Transcript Order, the electronic court recorder operator (ECRO), will inform the party of the amount required for payment of the transcription.
- (3) Transcription fees are payable in advance ONLY.

3. Appeal by Leave of Court

A. Notice of Appeal:

Same requirements as for an appeal as of right.

B. Fee:

Same fee as for an appeal as of right.

C. Motion for leave to appeal, Rules 8001(b), 8003, & 8008, Federal Rules of Bankruptcy Procedure:

(1) Contents of motion, Rule 8003(a), Federal Rules of Bankruptcy Procedure:

- a. A statement of facts necessary to an understanding of the questions to be presented on appeal.
- b. A statement of those questions and of the relief sought.
- c. A statement of the reasons why an appeal should be granted.
- d. A copy of the judgment or order complained of with any opinion rendered.

(2) Service of the motion, Rule 8008(b),(c) & (d), Federal Rules of Bankruptcy Procedure:

Appellant must serve a copy of the motion on all parties and include a certificate of service with the motion.

(3) Answer in opposition, Rule 8003(a), Federal Rules of Bankruptcy Procedure:

Within ten (10) days after service of the motion, an adverse party may file an answer in opposition with the clerk of the bankruptcy court.

(4) Transmittal of the motion, Rule 8003(b), Federal Rules of Bankruptcy Procedure:

Upon expiration of delays, the clerk of the bankruptcy court shall transmit the notice of appeal, motion and any answers to the district court.

D. Record and Issues on Appeal, Rule 8006, Federal Rules of Bankruptcy Procedure:

Designation of the items to be included in the record on appeal and statements of the issues to be presented shall be in accordance with Rule 8006, Federal Rules of Bankruptcy Procedure.

E. Request for transcript, Rule 8006, Federal Rules of Bankruptcy Procedure:

Same as for an appeal as of right.

4. Cross Appeal

A. A cross appeal may be filed with the clerk within the time allowed by Rule 8002, Federal Rules of Bankruptcy Procedure.

B. Fee, 28 U.S.C. 1930:

A fee of \$100.00 shall accompany the filing of a cross appeal from a bankruptcy court determination.

C. Record and Issues on Appeal,
Rule 8006, Federal Rules of Bankruptcy Procedure:

Designation of the items to be included in the record on appeal and statements of the issues to be presented shall be in accordance with Rule 8006, Federal Rules of Bankruptcy Procedure.

5. Miscellaneous

Stay pending appeal, Rule 8005, Federal Rules of Bankruptcy Procedure:

There is no automatic stay pending appeal. A motion to stay pending appeal should be made in the bankruptcy court. If security is required, it should be filed with the clerk of the bankruptcy court.

NOTE: The United States Bankruptcy Court for the Western District of Louisiana has a manual, Procedures For Processing An Appeal, which may be requested from the bankruptcy clerk's office, for further information.

6. Local Civil Rule 83.4 - Bankruptcy

LR83.4.1 Reference to Bankruptcy Judge

Under the authority of 28 U.S.C. 157 the district court refers to bankruptcy judges of this district all cases under Title 11 and all proceedings arising under Title 11 or arising in or related to a case under Title 11. As set forth in 28 U.S.C. 157(b)(5), personal injury tort and wrongful death claims shall be tried in the district court.

LR83.4.2 Appeal to the District Court

Appeals from judgments, orders or decrees of a bankruptcy judge shall be governed by Part VIII of the Bankruptcy Rules (Section 8001, et seq) and the applicable local rules of the district and bankruptcy courts.

LR83.4.3 Motion Seeking Relief From a District Judge

Motions filed seeking relief from a district judge, including motions under 28 U.S.C. 157(d) (for withdrawal of reference), 28 U.S.C. 157(c)(1) (objections to proposed findings of fact and conclusions of law) and Bankruptcy Rule 8005 (for stay pending appeal), shall be governed by the rules set out below.

A. Original Motion

1. Applicable Rules. The Local Rules for the district court shall be applicable to all motions filed in bankruptcy cases or proceedings seeking relief from a district judge. In those instances where the Bankruptcy Rules require a report from the bankruptcy judge, e.g., Bankruptcy Rules 5011(b) and 9027(e), the local Bankruptcy Rules shall apply until such report is issued.

2. Place of Filing. All motions described in this section above shall be filed with the clerk of the bankruptcy court.

3. Contents of Motion. In addition to the normal requirements of papers filed in the bankruptcy court, motions described in this section above shall include:

a. A clear and conspicuous statement opposite the title of the action that "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE."

b. A designation of the portions of the record

of the proceedings in the bankruptcy court that will reasonably be necessary or pertinent for consideration of the motion by the district court.

c. A list showing each party with an interest in the motion and for each party shown, their attorney along with such attorney's mailing address.

4. Subsequent Filings. Any filing in a matter under this section subsequent to the "Original Motion" set forth above shall be filed with the clerk of the district court and shall comply with all rules of such court.

5. Duties of the Clerk of the Bankruptcy Court. Upon filing of an original motion, as set forth above, the clerk of the bankruptcy court shall promptly transmit to the clerk of the district court:

a. The original motion and all attachments to the motion, and

b. The portion of the bankruptcy court record designated in accordance with (3)(b) above.

B. No Automatic Stay.

There shall be no automatic stay of bankruptcy court proceedings as a result of the filing of any motion under the above. Any stay of proceedings will result only from an order of the bankruptcy court or the district court.

C. Obligation of the Parties.

It shall be the obligation of each and every party and their attorney to apprise the bankruptcy court and the United States District Court of the orders entered in either forum which significantly affect matters pending in either forum.

LR83.4.4 Record Transmitted to the District Court

The authority to retain any portion of the record on appeal or in connection with a motion seeking relief from a district judge is delegated to the clerk of the bankruptcy court. If any portion of a record is retained in the bankruptcy court, a certified copy of such record shall be transmitted to the district court. If the district court requests the retained papers, the bankruptcy clerk shall transmit them forthwith.

In the event that papers are retained in the bankruptcy court and certified copies are transmitted to the district court, the bankruptcy court may order the party upon whose instance the papers were required to reimburse the clerk of the bankruptcy court for the cost of making the copies.

(Source: Uniform Local Rules for United States District Courts for the Eastern, Middle and Western Districts of Louisiana, as amended 1997; former ULLR 22, Bankruptcy).

SUBPOENAS

1. FORM; ISSUANCE FOR TRIAL, HEARING, DEPOSITION, PRODUCTION OR INSPECTION
2. EXAMINATION UNDER RULE 2004, FEDERAL RULES OF BANKRUPTCY PROCEDURE
3. SERVICE

1. Form; issuance for attendance at trial, hearing, deposition or for production or inspection, Rule 45, Federal Rules of Civil Procedure and Rule 9016, Federal Rules of Bankruptcy Procedure

A. Every subpoena shall:

- (1) State the name of the court from which it is issued.
- (2) State the title of the action, the name of the court in which it is pending, and case number.
- (3) Command each person to whom it is directed to attend and give testimony or to produce and permit inspection and copying of designated books, documents or tangible things in possession, custody or control of that person, or to permit inspection of premises, at a time and place therein specified.
- (4) Set forth the text set out in Rule 45(c) & (d), Federal Rules of Civil Procedure. A command to produce evidence or to permit inspection may be joined with a command to appear at trial or hearing or at a deposition, or may be issued separately.

- (5) Subpoenas commanding attendance at **trial** or **hearing** shall be issued from the court for the district in which trial or hearing is to be held. Subpoenas for attendance

at a **deposition** shall be issued from the court for the district designated by notice of deposition as the district in which the deposition is to be taken. If separate from a subpoena commanding attendance, a subpoena for production or inspection shall be issued from the court for the district in which the production or inspection is to be made.

- (6) An attorney as officer of the court may issue and sign a subpoena on behalf of a court in which the attorney is authorized to practice or a court for a district in which a deposition or production is compelled by the subpoena, if the deposition or production pertains to an action pending in a court where the attorney is authorized to practice. The clerk shall issue a subpoena, signed in blank, to a party requesting it, who shall complete it before service.

2. Subpoena for Examination under Rule 2004, Federal Rules of Bankruptcy Procedure

- A. On motion of any party in interest, the court may order the examination of any person.
- B. A completed Form B254, Subpoena for Rule 2004 Examination should be submitted with the motion.
- C. Attendance of an entity for examination and the production of evidence may be compelled in a manner provided in Rule 9016, Federal Rules of Bankruptcy Procedure, for attendance of witnesses at a trial or hearing.

- D. The court may for cause shown and on terms as it may impose, order the debtor to be examined under Rule 2004, Federal Rules of Bankruptcy Procedure, at any time or place it designates, whether within or without the district wherein the case is pending.
- E. An entity other than the debtor shall be tendered one day's attendance as allowed by

law and lawful mileage. To a debtor, no tender is necessary, except if the debtor resides more than 100 miles from the place of examination when required to appear for an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, the mileage allowed by law to a witness shall be tendered for any distance more than 100 miles from the debtor's residence at the date of the filing of the first petition commencing a case under Title 11, United States Code or the residence at the time the debtor is required to appear for the examination, whichever is the lesser.

- 3. Service Rule 45, Federal Rules of Civil Procedure and Rule 9016, Federal Rules of Bankruptcy Procedure
 - A. Subpoenas may be served by any person who is not a party and is not less than 18 years of age.
 - B. Service of a subpoena is made by delivering a copy to person named therein and, if the person's attendance is commanded, by tendering to that person the fees for one day's attendance and the mileage as allowed by law.
 - C. Subpoenas may be served at any place within the district of the court by which it is issued, or at any place without the district that is within 100 miles of the place of the deposition, hearing, trial, production, or inspection specified in the subpoena or at any place within the state where a state statute or

rule of court permits service of a subpoena issued by a state court of general jurisdiction sitting in the place of the deposition, hearing, trial, production, or inspection specified in the subpoena, or when a statute of the United States provides therefor, the court upon proper application and cause shown may authorize the service of a subpoena at any other place.

- D. Proof of service shall be made by filing with the clerk of the court by which the subpoena is issued a statement of the date and manner of service and of the names of the persons served, certified by the person who made the service.
- E. If filing an out of district notice of deposition, a \$20.00 filing fee will be required. 28 U.S.C. 1930

NOTE: Form B254, Subpoena for Rule 2004 Examination; Form B255, Subpoena In An Adversary Proceeding; and, Form B256, Subpoena In A Case Under the Code are attached to the Guide.

AMENDMENTS

A voluntary petition, list, schedule or statement may be amended by the debtor, as a matter of course, at any time before the case is closed. Rule 1009(a), Federal Rules of Bankruptcy Procedure

The statement of intention may be amended by the debtor at any time before the expiration of the period provided in 11 U.S.C. 521(2)(B). Rule 1009(b), Federal Rules of Bankruptcy Procedure

1. For amendments to a debtor's schedules or lists of creditors after notice to creditors, \$20.00 fee for each amendment, provided the bankruptcy judge may, for good cause, waive the charge in any case. Appendix to 28 U.S.C. 1930. Failure to pay said fee will result in the immediate return of the amendment.
2. All petitions, lists, schedules, statements and amendments thereto shall be verified or contain an unsworn declaration. 28 U.S.C. 1746 and Rule 1008, Federal Rules of Bankruptcy Procedure

3. When amending the schedules to add a creditor(s), a master mailing matrix showing only the newly listed creditor(s) must accompany the amendment.
4. The debtor shall give notice of the amendment to the trustee and to any entity affected thereby.
Rule 1009(a), Federal Rules of Bankruptcy Procedure
5. Pursuant to Uniform Local Bankruptcy Rule 9013-3, a certificate of service of said notice shall be filed no later than five (5) days after notice is given and must include that the added creditor(s) have been advised of the time for filing complaint objecting to discharge.
Rule 4004, Federal Rules of Bankruptcy Procedure
6. The debtor or attorney for debtor will be advised by a deficiency letter if the amendment is incorrect.
7. When amendments are filed, the original and three (3) copies are required.